HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 5232 OF 2007

Between:
R. Sreenivas

… Petitioner

And

The Commissioner of Transport,
Hyderabad & others.

… Respondents

:: O R D E R ::

Counsel for the petitioner : Shri C. Damodar Reddy

16.03.2007

Per G.S. Singhvi, CJ

In this petition, the petitioner has prayed for quashing demand notice dated 20.10.2006 issued by Regional Transport Officer, Ranga Reddy (East) (respondent No.2) for levy of tax and penalty amounting to Rs.81,000/- in respect of vehicle bearing No. AP 09X 2068 (maxi cab) which was seized under Section 207 of the Andrha Pradesh Motor Vehicles Act, 1988 read with Section 8 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (for short, 'the 1963 Act').

The petitioner is the registered owner of the vehicle which is subject matter of the demand notice impugned in the writ petition. He is said to have purchased the vehicle by taking loan from M/s. Sree Vaishnavi Auto Finance Corporation, Ameerpet, Hyderabad (for short, 'the financier') under hire purchase agreement. He has averred that on account of non-payment of the instalments of loan, the financier

took away the vehicle and that after repaying the loan amount on 7.2.2006, he could secure termination of the hire purchase agreement. He has further averred that while the vehicle was with the financier, the same was seized by the Assistant Motor Vehicle Inspector on the charge of non-payment of tax in terms of the provisions contained in the 1963 Act. After termination of the hire purchase agreement, the petitioner filed Writ Petition No.13640 of 2006 for ordering release of the vehicle. The same was disposed of by the learned Single Judge on 25.9.2006 by granting him leave to apply for release of the vehicle. Thereafter, he approached respondent No.2, who, instead of releasing the vehicle, issued show cause notice dated 7.10.2006 for payment of tax amounting to Rs.27,000/- and penalty of Rs.54,000/-. The petitioner filed reply dated 11.10.2006 to contest the notice. However, without considering the same, respondent No.2 issued the demand notice, which is under challenge in the writ petition.

Shri C. Damodar Reddy, learned counsel for the petitioner argued that the demand of tax and penalty created by respondent No.2 is ultra vires the provisions of the 1963 Act and, therefore, the same is liable to be quashed. He submitted that the petitioner cannot be saddled with the liability of tax for the period during which the vehicle remained in the custody of the financier.

We have considered the submissions of the learned counsel, but have not felt impressed. In our opinion, the writ petition is liable to be dismissed because an effective alternative remedy is available to the petitioner by way of appeal under Section 12 of the 1963 Act and there is no extraordinary reason for making departure from the settled law that the High Court will not entertain writ petition if an effective alternative remedy is available to the petitioner (See **A.V. Venkateshwaran v. R.S. Wadhwani**[1], **Thansingh Nathmal v. Superintendent of Taxes**[2], **Baburam v. Zilla Parishad**[3], **Champa Lal v. I.T. Commissioner**[4], **J.M. & Co. v. Agricultural I.T. Officer,**

Assam[5], **C.I.T. v. Ramendra Nath Ghosh**[6], **Swadeshi Cotton Mills Co. Ltd. v. Govt. of U.P.**[7], **Gujarat University v. N.U. Rajguru**[8], **State of H.P. v. Raja Mahendra Pal**[9], **L.L. Sudhakar Reddy v. State of A.P.**[10], **State of Bihar v. Jain Plastics & Chemicals Ltd.,**[11], **Harbanslal Sahnia v. Indian Oil Corporation Ltd.,**[12], **ABL International Ltd. v. Export Credit Guarantee Corporation of India Ltd.,**[13] **Titaghur Paper Mills Co. Ltd. v. State of Orissa**[14] and **Assistant Collector, Central Excise v. Dunlop India Ltd.**[15]**)**

For the reason aforestated, the writ petition is dismissed with liberty to the petitioner to avail the remedy of appeal.

As a sequel to dismissal of the writ petition, W.P.M.P.No.6681 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

16.03. 2007

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[1] AIR 1961 SC 1506

[2] AIR 1964 SC 1419

[3] AIR 1969 SC 556

[4] AIR 1970 SC 645

[5] AIR 1970 SC 1980

[6] (1972) 4 SCC 379

[7] (1975) 4 SCC 378

[8] AIR 1988 SC 66

[9] (1999) 4 SCC 43

[10] (2001) 6 SCC 634

[11] (2002) 1 SCC 216

[12] (2003) 2 SCC 107

[13] (2004) 3 SCC 553

[14] (1983) 2 SCC 433

[15] (1985) 1 SCC 260